

Section 2242 requires that an “[a]pplication for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.” Before Sandoval or any other person can act on petitioner’s behalf in this action, she must be appointed as next friend under Rule 17 of the Federal Rules of Civil Procedure. In this action, there is no indication that petitioner suffers from a mental disease, disorder, or defect that substantially affects his capacity to make decisions. As a result, there is no evidence before me that would

support appointing Sandoval as petitioner's next friend. See Ross ex rel. Smyth v. Lantz, 396 F.3d 512, 514 (2nd Cir. 2005).

I will direct the Clerk to return the petition to petitioner so that he may sign it. If petitioner is unable to sign the petition or make decisions for himself because of a mental disease or defect, or some other reason rendering him incompetent, then the proper person must file a motion to proceed as representative or next friend under Rule 17.


Accordingly,

IT IS HEREBY ORDERED that the Clerk shall return the petition for writ of habeas corpus to petitioner so that he may sign it.

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Memorandum and Order, either (1) petitioner must sign and return his petition to the Court or (2) the proper person must submit a motion to proceed as representative or next friend for petitioner under Rule 17 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that failure to comply with this Memorandum and Order may result in the summary dismissal of this action.

Dated this 13th day of June, 2013.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE